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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/765,124	01/28/2004	Koichi Tamura	045054-0157	2246
22428 7590 05/09/2008 FOLEY AND LARDNER LLP SUITE 500 3000 K STREET NW WASHINGTON, DC 20007			EXAMINER BRANDT, CHRISTOPHER M	
			ART UNIT 2617	PAPER NUMBER
			MAIL DATE 05/09/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/765,124

Applicant(s)

TAMURA, KOICHI

Examiner

CHRISTOPHER M. BRANDT

Art Unit

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 December 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-8508)
- Paper No(s)/Mail Date 12/21/2007.
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

Response to Arguments

Applicant's arguments with respect to claims 1-5, 7-11, 13-17, and 19-23 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-5, 7-11, 13-17, and 19-23 are rejected under 35 USC 103(a) as being unpatentable over **Jonsson (US PG PUB 2005/0271122 A1)** in view of **Reznik et al. (US Patent 6,748,009 B2, hereinafter Reznik)**.

Consider **claim 1 (and similarly applied to claims 7, 13, and 19)**. Jonsson discloses path searching circuit employed in a WCDMA communication system comprising (paragraph 27):

a weighing controlling section to monitor a change of a power level of a sample of each of two or more delay profiles to be used in same power adding processing in delay profile calculation for path search processes and to assign weight to a power level of a specified sample according to a result from the monitoring (paragraph 71, read as the path-searcher 11 of the receiver 10 is run to derive the current power delay profile. The delay powers received during the current path-searcher activation are first selected with the largest powers. Each selected power is ranked and given a ranking weight. In addition, the contribution of delay number 4 is added to the power delay profile discrepancy variable).

Although Jonsson discloses the claimed invention he fails to explicitly teach that the invention is employed in a CDMA communication system and the exercising of a weighting control where a judgment as to whether said weighting control is exercised on a specified sample depends upon a number of sample of a candidate for said weighting control.

However, Reznik discloses a CDMA communication system and the exercising of a weighting control where a judgment as to whether said weighting control is exercised on a specified sample depends upon a number of sample of a candidate for said weighting control

(column 12 line 54 – column 13 line 17, read as ranking the powers in descending in order with at least two samples, where the ranking is the weighting control).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the teachings of Reznik into the circuit of Jonsson in order to improve a receiver for receiving wireless multi-path communication signals by measuring the tapped delay line profile and reallocate RAKE fingers whenever the delays have changed by a significant amount (abstract, column 1 lines 65-67).

Consider **claims 2 and as applied to claim 1 (and similarly to claims 8, 14, and 20)**. Jonsson discloses the method wherein said weighing controlling section saves a sample whose power level exceeds a power threshold value as said candidate for said weighing control (paragraph 71).

Consider **claim 3 and as applied to claim 2 (and similarly to claims 9, 15, and 21)**. Jonsson and Reznik disclose the method wherein said weighing controlling section, when the number of samples of said candidate for said weighing control is 1 (one), assigns negative weight to a power level of the sample (Jonsson; paragraph 71; Reznik; column 12 line 54 – column 13 line 17, the lowest ranking is read as a negative weight).

Consider **claim 4 and as applied to claim 2 (and similarly applied to claims 10, 16, and 22)**. Jonsson and Reznik disclose the claimed invention except wherein said weighing controlling section, when a number of samples of said candidate for said weighing control is two or more and when a difference in power levels among specified samples is a change threshold

value or more, assigns negative weight to power levels of the two or more samples (column 12 line 54 – column 13 line 17, the lowest ranking is read as a negative weight).

Consider **claim 5 and as applied to claim 1 (and similarly applied to claims 11, 17, and 23)**. Jonsson and Reznik disclose wherein said weight assigned to said power level of said specified sample by said weighing controlling section is determined based on any one of a fixed value, a maximum power level, and an amount of a change in a power level (column 12 line 54 – column 13 line 17).

Allowable Subject Matter

Claims 6, 12, 18, and 24 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Regarding **claims 6 (and similarly claims 12, 18, and 24)**, the following is a statement of reasons for the indication of allowable subject matter: the references Jonsson and Reznik and a thorough search in the art did not comprehensively read on the limitations recited in the claims. Specifically, wherein when a number of samples of said candidate for said weighing control is 3 (three) or more, a difference between a maximum power level and a minimum power level is compared with said change threshold value or a difference in power levels among samples of delay profiles existing before and after one another in terms of time is compared with said change threshold value.

Conclusion

Any response to this Office Action should be **faxed to (571) 273-8300 or mailed to:**

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Hand-delivered responses should be brought to

Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher M. Brandt whose telephone number is (571) 270-1098.

The examiner can normally be reached on 7:30a.m. to 5p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, George Eng can be reached on (571) 272-7495. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist/customer service whose telephone number is (571) 272-2600.

Christopher M. Brandt

C.M.B./cmb

May 6, 2008

/George Eng/

Supervisory Patent Examiner, Art Unit 2617